
INSTRUCTIONS FOR RECORDING HOMESTEAD EXEMPTION DECLARATIONS

I. PURPOSE OF HOMESTEAD EXEMPTION DECLARATION

If you complete this form and record it in the Clerk and Recorder's Office in the county in which you live and have your home, it exempts your homestead from creditors' claims except for mortgages, construction liens, and Medicaid liens.

II. MEANING OF HOMESTEAD

The exemption protects the home you live in. You must actually reside on the property for it to be exempt. Homestead includes the dwelling house, or mobile home, and the land and improvements legally defined as appurtenances to the land. This may include a mobile home where the mobile home owner does not own the land the mobile home is situated on.

III. LIMIT ON VALUE EXEMPT

The maximum value of the exempt property is two-hundred fifty thousand dollars. If the value exceeds two-hundred fifty thousand dollars, the creditors may partition the land, selling part of it or may sell all the property. If they sell all the property you get the first two-hundred fifty thousand dollars (\$250,000.00) of the proceeds. If the house is sold and you receive this exempt money, the money is safe from collection by creditors for 18 months.

IV. WHO SHOULD SIGN

If married, both spouses should sign the declaration. If one does not sign, his or her interest in the property is not exempt. Both must sign in front of a notary.

NOTE: Under Montana property law, a spouse may acquire an interest in property due to the marriage, even though the spouse is not listed on the deed or other documents of title, and even though the spouse has not directly contributed money to pay for the property. Therefore, every effort should be made to have both spouses sign the declaration.

V. RECORDING DECLARATION

After the Homestead Exemption Declaration form on page 40 is completed, signed, and notarized, record the form in the Office of the County Clerk and Recorder for the county in which the land (or mobile home) is located. The recording fee for a one page document is \$6.00 and must be paid when the document is delivered to the Clerk and Recorder for recording.